

June 11, 2021

VIA ELECTRONIC MAIL

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

**RE: Docket 5080 – System Reliability Procurement 2021-2023 Three-Year Plan
Rhode Island Non-Wires Alternative Benefit-Cost Analysis Model
Brief on Motions for Protective Treatment**

Dear Ms. Massaro:

On behalf of The Narragansett Electric Company d/b/a National Grid (“National Grid” or the “Company”), enclosed¹ please find National Grid’s brief to expand upon the Company’s Motions for Protective Treatment filed in this docket dated November 20, 2020 and June 1, 2021 related to Rhode Island’s Non-Wires Alternatives Benefit-Cost Analysis Model (“RI NWA BCA Model”).

The Company has also enclosed the redacted Excel version of the RI NWA BCA Model.

Thank you for your attention to this filing. If you have any questions or concerns, please do not hesitate to contact me at 401-784-4263.

Sincerely,



Andrew S. Marcaccio

Enclosures

cc: Docket 5080 Service List
Jon Hagopian, Esq.
John Bell, Division

¹ Per Commission counsel’s update on October 2, 2020, concerning the COVID-19 emergency period, the Company is submitting an electronic version of this filing followed by five hard copies filed with the Clerk within 24 hours of the electronic filing.

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

IN RE: THE NARRAGANSETT ELECTRIC COMPANY :
d/b/a NATIONAL GRID'S SYSTEM RELIABILITY : DOCKET NO. 5080
PROCUREMENT (SRP) THREE-YEAR PLAN :

**BRIEF OF THE NARRAGANSETT ELECTRIC COMPANY D/B/A
NATIONAL GRID ON PROTECTIVE TREATMENT OF
RI NWA BCA MODEL**

The Narragansett Electric Company d/b/a National Grid (the “Company”) submits this Brief to expand upon the Company’s Motions for Protective Treatment filed in this docket dated November 20, 2020¹ and June 1, 2021² (the “Motions”). The Motions request protective treatment of the Company’s Rhode Island Non-Wires Alternatives Benefit-Cost Analysis Model (“RI NWA BCA Model”). For the reasons set forth in the Motions, the Public Utilities Commission (“PUC”) is authorized to deem the RI NWA BCA Model confidential and withhold it from public disclosure. However, the Company recognizes the competing interests of preserving the Company’s competitive position which, in turn, protects customers, and promoting transparency. In an effort to achieve an optimal balance, the Company has classified the various components of the RI NWA BCA Model into four tiers. The Company respectfully requests that the PUC deem Tier 1 and Tier 2 confidential. The Company will publicly release the components classified as Tier 3 and Tier 4 in coordination with the filing of this Brief.

¹ See SRP Three-Year Plan, [http://www.ripuc.ri.gov/eventsactions/docket/5080-NGrid-SRP%202021-2023%20Three-Year%20Plan\(11-20-2020\)V1.pdf](http://www.ripuc.ri.gov/eventsactions/docket/5080-NGrid-SRP%202021-2023%20Three-Year%20Plan(11-20-2020)V1.pdf)

² See SRP Year-End Report, [http://www.ripuc.ri.gov/eventsactions/docket/5080-NGrid-2020%20SRP%20Year-End%20Plan%20\(6-1-21\).pdf](http://www.ripuc.ri.gov/eventsactions/docket/5080-NGrid-2020%20SRP%20Year-End%20Plan%20(6-1-21).pdf)

I. BACKGROUND

In this docket, the Company filed its System Reliability Procurement (“SRP”) 2021-2023 Three-Year Plan (the “SRP Three-Year Plan” or “Plan”) on November 20, 2020³ and 2020 SRP Year-End Report (the “SRP Year-End Report” or “Report”) on June 1, 2021.⁴ Within the Plan and Report, the Company included its RI NWA BCA Model under motion for protective treatment.⁵ Concerns pertaining to the confidentiality of the RI NWA BCA Model were expressed through comment by one of the parties⁶ and through public comment.⁷ On March 12, 2021, the Company filed reply comments reiterating its position to seek protective treatment of the RI NWA BCA Model.⁸ Following receipt of the comments and reply comments, the PUC provided the Company an opportunity to submit this Brief and the parties an opportunity to submit a reply brief. As explained herein, the PUC should deem the Tier 1 and Tier 2 components of the RI NWA BCA Model confidential.

II. THE RI NWA BCA MODEL - COMPONENTS & CLASSIFICATION

The RI NWA BCA Model is an Excel spreadsheet containing thirteen (13) sheets or tabs. In preparation of this Brief, the Company examined each tab for purposes of assessing the level of impact that a public release of the individual tab would have on the Company’s competitive position. See Table 1 below for a description of each tab and corresponding tier as classified by

³ See footnote 1.

⁴ See footnote 2.

⁵ The RI NWA BCA Model is referenced as Appendix 3 in the Plan and as Appendix 4 in the Report. The RI NWA BCA Model contained within the Report is a slightly updated version of the RI NWA BCA Model contained with the Plan. The Company proposes the PUC need only consider the updated version (version 1.1) proposed in the Report.

⁶ See <http://www.ripuc.ri.gov/eventsactions/docket/5080-Acadia%20Center%20Comments-%20Dkt%205080%20SRP%203YP.pdf>

⁷ See <http://www.ripuc.ri.gov/eventsactions/docket/5080-SethHandy%2021.2.26%20System%20Reliability%20Plan.pdf>

⁸ See [http://www.ripuc.ri.gov/eventsactions/docket/5080-NGrid-Reply%20Comments%20\(Intervenor%20&%20Seth%20Handy\)\(PUC%203-12-2021\).pdf](http://www.ripuc.ri.gov/eventsactions/docket/5080-NGrid-Reply%20Comments%20(Intervenor%20&%20Seth%20Handy)(PUC%203-12-2021).pdf)

the Company. Tier 1 is likely to have the greatest impact on the Company’s competitive position and Tier 4 the least impact. The Company respectfully requests that the PUC deem the tabs classified as Tier 1 and Tier 2 confidential.

Table 1: RI NWA BCA Model Tab Detail

Tab	Description	Classification
Instructions	This tab contains background information and instructions on how to use the RI NWA BCA Model for the Company project manager. This tab also contains the version log and detail.	4
Inputs-Systems	This tab is to enter the electric system input information for the target feeder(s) and/or substation(s). This tab also contains market factors, system peak coincidence, and environmental information.	2
Inputs-Proposal	This tab is structured to contain the solution information for each respective proposal.	2
Proposals Comparison	This tab is structured to contain the calculated costs, benefits, and BCA output for each respective proposal.	2
Benefits Calc	This tab calculates the benefits respective of the solution technology type and according to the input parameters of each respective bid.	1
Coincidence Factors	This tab maintains the coincidence factors by technology type.	1
Energy	This tab maintains the peak and off-peak wholesale cost of electric energy, sourced from the Avoided Energy Supply Costs in New England (“AESC”) study.	3
Embedded Emissions	This tab maintains the embedded emissions avoidance values, from the Regional Greenhouse Gas Initiative (“RGGI”), for carbon dioxide and sulfur dioxide, sourced from the AESC study.	3
Non-Embedded Emissions	This tab maintains the non-embedded cost of greenhouse gasses, namely carbon dioxide, sulfur dioxide, and nitrogen dioxide, sourced from the AESC study and the Environmental Protection Agency (“EPA”).	3
DRIPE	This tab maintains the intrastate values for wholesale energy, capacity, and cross-Demand Reduction Induced Price Effects (“DRIPE”), sourced from the AESC study.	3
Capacity	This tab maintains the wholesale capacity values for the avoided cost of electricity, sourced from the AESC study.	3

Tab	Description	Classification
Cost Calculator	This tab calculates the costs according to the proposed solution contract and input parameters of each respective bid.	1
Lists	This tab contains general, listed data for use in other tabs of the spreadsheet Model, namely the 'Inputs-System' and 'Inputs-Proposal' tabs.	4

III. **ARGUMENT**

A. **APRA authorizes the PUC to withhold the RI NWA BCA Model from public disclosure.**

In this subsection (A), the Company reiterates its argument contained within the Motions. For matters before the PUC, a claim for protective treatment of information is governed by the policy underlying the Access to Public Records Act (“APRA”), R.I. Gen. Laws § 38-2-1 et seq. See 810-RICR-00-00-1.3(H)(1). Under APRA, any record received or maintained by a state or local governmental agency in connection with the transaction of official business is considered public unless such record falls into one of the exemptions specifically identified by APRA. See R.I. Gen. Laws §§ 38-2-3(a) and 38-2-2(4). Therefore, if a record provided to the PUC falls within one of the designated APRA exemptions, the PUC is authorized to deem such record confidential and withhold it from public disclosure.

The RI NWA BCA Model, which is the subject of this Brief, is exempt from public disclosure pursuant to R.I. Gen. Laws § 38-2-2(4)(B) as “[t]rade secrets and commercial or financial information obtained from a person, firm, or corporation that is of a privileged or confidential nature.” *The Attorney General’s Guide to Open Government in Rhode Island 6th Edition*⁹ provides guidance as to the scope of R.I. Gen. Laws § 38-2-2(4)(B)’s applicability.

⁹ See <http://www.riag.ri.gov/Forms/AGguidetooopengovernment.pdf>

It states that:

If a request is made for financial or commercial information that a person is obliged to provide to the government, it is exempt from disclosure if the disclosure is likely either: (1) to impair the government's ability to obtain information in the future, or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. If a request is made for financial or commercial information that is provided to the government on a voluntary basis, it is exempt from disclosure if the information "is a kind that would customarily not be released to the public by the person from whom it was obtained." *The Providence Journal Company v. Convention Center Authority*, 774 A.2d 40 (R.I. 2001).

The RI NWA BCA Model is the model that the Company developed to more accurately assess the benefits and costs of NWA solutions. This model is proprietary to the Company and the Company considers this model to be commercial information. The Company would customarily not release this model to the public and its submission stems from a regulatory directive issued by the PUC via Section 1.3.B of the Least Cost Procurement Standards. Accordingly, the Company is providing the RI NWA BCA Model to the PUC to fulfil its regulatory responsibilities. Therefore, the RI NWA BCA Model is exempt from public disclosure "if the disclosure is likely either: (1) to impair the government's ability to obtain information in the future, or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." See *The Attorney General's Guide to Open Government in Rhode Island 6th Edition*, p. 22.

The release of the RI NWA BCA Model, particularly the release of the components classified as Tiers 1 and 2, is likely to cause substantial harm to the competitive position of the Company. The RI NWA BCA Model includes sensitive information and other commercial details regarding the Company's analysis of NWA opportunities. Disclosing this information to the public could harm the Company's ability to procure third-party NWA solution bids in the most cost-effective and unbiased manner and, ultimately, harm customers.

B. Public disclosure of the Company’s RI NWA BCA Model, particularly the components classified as Tier 1 and Tier 2, will have an impact on customers.

Publicly disclosing the RI NWA BCA Model, particularly the components classified as Tiers 1 and 2, is likely to harm the Company’s ability to procure third-party NWA solutions in the most cost-effective and unbiased manner. Publishing the RI NWA BCA Model creates a risk that third-party solution vendors will use the model’s detailed information to inflate and maximize the cost of their solution so that their bid provides maximum financial return for their company, instead of a bid that maximizes value for customers. This risk for bid manipulation stemming from the public release of detailed procurement information was recently brought up by the Company’s affiliates, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid (“National Grid”) and the Massachusetts Department of Energy Resources (“MA DOER”) in D.P.U 21-40.¹⁰ The MA DOER’s rationale was summed up as follows:

DOER, however, recommends that the RFP should not disclose the specific point allocations for the remaining qualitative criterion, as accelerating the disclosure of specific point allocations to the RFP **may allow bidders to manipulate their bids** to focus on specific categories of points rather than bid a combined overall best value project for the Commonwealth. Emphasis added. See Page 59 of D.P.U. 21-40.

Despite receiving comments asking for the public release of the scoring criteria,¹¹ the Massachusetts Department of Public Utilities (“MA DPU”) agreed with National Grid and the MA DOER holding that:

We concur with the Companies’ assessment that the additional language that DOER and the Companies negotiated in § 2.3 of the RFP already provides bidders with advanced notice on the priorities of the qualitative evaluation and **that disclosing additional information on the points attributed to the qualitative factors is not necessary**. Therefore, we find

¹⁰ See D.P.U. 21-40, <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/13505391>

¹¹ Through comments, counter arguments were made suggesting that National Grid should release the details on its anticipated weighting of all scoring criteria. The rationale was that this additional information would promote transparency and allow developers “to tailor their proposals to place more emphasis on the policy objectives having greater importance.” See Page 58 of D.P.U. 21-40.

that the RFP provides the appropriate amount of transparency as to the priorities of the Commonwealth for bidders to provide the best product offering. Accordingly, consistent with precedent, the Department will not require the Petitioners to publish the quantitative and qualitative evaluation criteria with the issuance of the RFP. D.P.U. 17-103, at 51-52; D.P.U. 17-32, at 62-65; and D.P.U. 19-45, at 46-47. Emphasis added. See Page 62 of D.P.U. 21-40

In the Massachusetts’ matter, the issue was whether to publicly release detailed scoring criteria within the request for proposals (“RFP”) in connection with National Grid’s solicitation of bids to enter into long term contracts for offshore wind energy generation. In the matter at hand, the issue is similar. In Rhode Island, prospective bidders for NWA solutions have access to an array of information within the SRP Three-Year Plan describing the goals and priorities of a potential solicitation. For example, see Table 7 in the SRP Three-Year Plan entitled *National Grid USA Evaluation Categories for NWA Solution Proposals*.¹² In addition, both the scoring criteria examined by the MA DPU and the RI NWA BCA Model that is before the Commission provide detailed procurement information which, if released, would create a risk for bid manipulation. If that risk is realized, it would have a negative impact on customers as the potential loss in benefit value, and corresponding higher costs, would be borne by customers through an increased SRP Factor.

IV. CONCLUSION

For the reasons set forth herein, the Company respectfully requests that the PUC deem the RI NWA BCA Model tabs entitled *Inputs-Systems, Inputs-Proposal, Proposals Comparison, Benefits Calc, Coincidence Factors, and Cost Calculator* confidential.

¹² See SRP Three-Year Plan, [http://www.ripuc.ri.gov/eventsactions/docket/5080-NGrid-SRP%202021-2023%20Three-Year%20Plan\(11-20-2020\)V1.pdf](http://www.ripuc.ri.gov/eventsactions/docket/5080-NGrid-SRP%202021-2023%20Three-Year%20Plan(11-20-2020)V1.pdf), Bates Page 52.

Respectfully submitted,

NATIONAL GRID

By its attorney,



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Dated: June 11, 2021

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2021, I delivered a true copy of the foregoing Motion via electronic mail to the parties on the Service List for Docket No. 5080.



Joanne M. Scanlon

Certificate of Service

I hereby certify that a copy of the cover letter and any materials accompanying this certificate was electronically transmitted to the individuals listed below.

The paper copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to the Rhode Island Division of Public Utilities and Carriers.



Joanne M. Scanlon

June 11, 2021
Date

Docket No. 5080 - National Grid – System Reliability Procurement 2021-2023 Plan
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